

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RICHARD JAMES WELK,

Plaintiff,

v.

CDCR, et al.,

Defendants.

No. 2: 22-cv-0351 KJN P

ORDER

On March 29, 2023, defendants filed a motion to dismiss plaintiff's claim brought pursuant to the Americans with Disabilities Act ("ADA").¹ (ECF No. 32.) Plaintiff did not oppose the motion.

Local Rule 230(l) provides in part: "Failure of the responding party to file written opposition or to file a statement of no opposition may be deemed a waiver of any opposition to the granting of the motion" Id.

Local Rule 110 provides that failure to comply with the Local Rules "may be grounds for imposition of any and all sanctions authorized by statute or Rule or within the inherent power of the Court." Id. Plaintiff is advised that failure to comply with the Local Rules may result in a recommendation that the action be dismissed.

¹ On March 29, 2023, defendants filed an answer to plaintiff's Eighth Amendment claims. (ECF No. 31.)


1 Finally, Rule 41(b) of the Federal Rules of Civil Procedure provides:

2 **Involuntary Dismissal; Effect.** If the plaintiff fails to prosecute or
3 to comply with these rules or a court order, a defendant may move to
4 dismiss the action or any claim against it. Unless the dismissal order
5 states otherwise, a dismissal under this subdivision (b) and any
dismissal not under this rule--except one for lack of jurisdiction,
improper venue, or failure to join a party under Rule 19--operates as
an adjudication on the merits.

6 Id.

7 Good cause appearing, IT IS HEREBY ORDERED that, within thirty days from the date
8 of this order, plaintiff shall file an opposition, if any, to the motion to dismiss. In the alternative,
9 plaintiff may file a statement of non-opposition to the motion to dismiss. Failure to file an
10 opposition or statement of non-opposition will be deemed as consent to have the: (a) action
11 dismissed for lack of prosecution; and (b) action dismissed based on plaintiff's failure to comply
12 with these rules and a court order. Said failure shall result in a recommendation that this action
13 be dismissed pursuant to Federal Rule of Civil Procedure 41(b).

14 Dated: May 4, 2023

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16 KENDALL J. NEWMAN
17 UNITED STATES MAGISTRATE JUDGE
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